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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,555	03/23/2004	Yonas Gizaw	9586	2561

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THE PROCTER & GAMBLE COMPANY  
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CINCINNATI, OH 45224

EXAMINER
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STULII, VERA

ART UNIT	PAPER NUMBER
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1761

MAIL DATE	DELIVERY MODE
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05/23/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/806,555	<b>Applicant(s)</b> GIZAW ET AL.	
	<b>Examiner</b> Vera Stulii	<b>Art Unit</b> 1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scharschmidt et al (US 3,615,677) in view of Martinez-Bustos et al (US 5,532,013).

In regard to claims 1-8, Scharschmidt et al disclose alimentary paste product comprising corn flour materials (Abstract) and pH-increasing agent such as calcium carbonate (Col. 6 Example III). In regard to claim 1, Scharschmidt et al disclose "In another embodiment of the invention partially pregelatinized corn flour is substituted for some or all of the ungelatinized corn flour used in the formulation" (Col. 5 lines 23-25). In regard to claims 2-3, 5-6, and 8, Scharschmidt et al disclose providing the non-steeped corn blend, providing water, mixing the non-steeped corn blend and the water to form a dough (Col. 6 Example III). In regard to claims 4 and 7, Scharschmidt et al disclose extruding and cutting dough into shapes and further cooking in boiling water (Col. 6 Example III).

Regarding claim 8, mixing of ingredients of steps (a), (b), (c) results in a masa-type dough product. See instant claims 1 and 2, which demonstrate that these steps result in the production of a masa-type dough product. Therefore the disclosed production of masa-type dough product reads upon both (d) steps. Therefore the reference teaches the limitations of instant claims 1-8.

Scharschmidt et al do not disclose use of calcium hydroxide in a non-steep corn blend.

Martinez-Bustos et al disclose "[i]nstant fresh corn dough or masa may be prepared in short processing times, with low energy consumption and without liquid wastes by extruding a mixture of corn flour, lime and water in an extrusion or kneading chamber until a homogeneous dough is obtained, heating the homogeneous dough to cooking temperature while kneading is continued, expelling the cooked dough through a die from the extrusion chamber to a holding chamber, cooling the dough in said holding chamber and discharging the cooked and cooled dough through a discharge orifice" (Abstract). Thus, Martinez –Bustos et al disclose preparing a food product by providing a non-steep corn blend comprising corn flour and lime (calcium hydroxide), providing water, mixing non-steep corn blend and water, forming a dough, forming a food pieces from masa-type dough, and cooking food pieces to form a food product. It is noted that no steeping step is included in the process. Regarding use of lime (calcium hydroxide), Martinez –Bustos et al disclose adding lime (calcium hydroxide) to corn flour in an amount sufficient to provide desired pH level (Col. 10 Claim 1).

In summary, both Martinez –Bustos et al and Scharschmidt et al disclose preparing a food product by providing a non-steep corn blend comprising corn flour and pH adjusting agent containing calcium cations [lime (calcium hydroxide)/calcium carbonate], providing water, mixing non-steep corn blend and water, forming a dough, forming a food pieces from masa-type dough, and cooking food pieces to form a food product. It is noted that no steeping step is included in the processes. Since both

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Martinez –Bustos et al and Scharschmidt et al disclose similar processes resulting in similar food product using similar ingredients and components, one of the ordinary skill in the art would have been motivated to modify disclosure of Scharschmidt et al and substitute one pH adjusting agent containing calcium cations such as calcium carbonate with another pH adjusting agent containing calcium cations such as lime (calcium hydroxide). One of the ordinary skill in the art would have been motivated to do so, since both lime (calcium hydroxide) and calcium carbonate are well established in the art as neutralizing agents in preparation of corn masa/dough products.

### ***Response to Arguments***

As a result of Applicants' amendments of claim 8, the rejection of claim 8 under U.S.C. 112 2<sup>nd</sup> paragraph has been withdrawn.

Applicant's arguments with respect to claims 1-8 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vera Stulii whose telephone number is (571) 272-3221. The examiner can normally be reached on 7:00 am-3:30 pm, Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Vera Stulii *V. Stulii*

  
**KEITH HENDRICKS**  
**PRIMARY EXAMINER**